

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION

|                                |   |                             |
|--------------------------------|---|-----------------------------|
| Khammesherma Smith,            | ) |                             |
|                                | ) | C.A. No. 6:23-02698-HMH-KFM |
| Plaintiff,                     | ) |                             |
|                                | ) |                             |
| vs.                            | ) | <b>OPINION &amp; ORDER</b>  |
|                                | ) |                             |
| Dr. Ayllene, Lakeyna Campbell, | ) |                             |
|                                | ) |                             |
| Defendants.                    | ) |                             |

This matter is before the court upon Khammesherma Smith’s (“Smith”) untimely objections, which the court construes as a motion to reconsider<sup>1</sup> the court’s September 14, 2023 opinion and order adopting the Report and Recommendation, denying Smith’s motion to proceed in forma pauperis based on the three strikes rule of 28 U.S.C. § 1915(g), and ordering Smith to pay the filing fee within 21 days or the case would be dismissed.

Objections were due September 4, 2023. Smith dated his objections September 21, 2023, and the objections are postmarked September 29, 2023.<sup>2</sup> Smith alleges that his objections are late due to transfer to another institution. On June 26, 2023, the magistrate judge issued a proper form order advising Smith that

if you have a change of address before this case is ended, you must comply with this order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the Court.

---

<sup>1</sup> On October 3, 2023, the court issued an order, docket number 27, construing Smith’s untimely objections as a motion to alter or amend judgment, and denying the motion. This order is vacated because judgment has not been entered in this case.

<sup>2</sup> Houston v. Lack, 487 U.S. 266 (1988).

(Proper Form Order, ECF No. 7.) Smith had an obligation to inform the court of any address change, and Smith failed to timely inform the court. In addition, Smith's "objections" are wholly without merit and nonspecific, generally arguing that the three strikes rule does not apply because he has appealed all of his prior cases. (Obj. & Mot., ECF No. 25.) Smith has more than three actions that were specifically dismissed under grounds that qualify as strikes under 28 U.S.C. § 1915(g). Out of an abundance of caution due to Smith's transferring to another institution, the court grants Smith an extension of time in which to pay the filing fee. If Smith fails to pay the filing fee by October 16, 2023, this matter will be dismissed.

It is therefore

**ORDERED** that the court's October 3, 2023 Order construing Smith's untimely objections as a motion to alter or amend judgment, and denying the motion, docket number 27, is vacated.

**ORDERED** that Smith's motion to reconsider, docket number 25, is denied. Smith must pay the filing fee by October 16, 2023 or the case will be dismissed.

**IT IS SO ORDERED.**

s/Henry M. Herlong, Jr.  
Senior United State District Judge

Greenville, South Carolina  
October 4, 2023

#### **NOTICE OF RIGHT TO APPEAL**

Smith is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.